

Chair Wm. Weston J. Newton

Legislative Oversight Committee

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Healthcare and Regulatory Subcommittee Meeting

Thursday, August 30, 2018, at 11:00 am

Blatt Building Room 317

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. The Healthcare and Regulatory Subcommittee is called to order by Chair Phyllis J. Henderson on Thursday, August 30, 2018, in Room 317 of the Blatt Building. All members of the Subcommittee are present for all or a portion of the meeting, with the exception of Representative Bill Bowers.

Minutes

- I. House Rule 4.5 requires standing committees to prepare and make available to the public the minutes of committee meetings, but the minutes do not have to be verbatim accounts of meetings. It is the practice of the Legislative Oversight Committee to provide minutes for its subcommittee meetings.
- II. Representative Douglas moves to approve the meeting minutes from the July 30, 2018, meeting.

Representative Douglas' motion to approve the meeting minutes from the July 30, 2018, meeting.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers			✓	
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

Meeting

- I. Chair Henderson explains that this is the Subcommittee's eighth meeting with the Department of Disabilities and Special Need (DDSN).
- II. Chair Henderson explains that the purpose of the meeting is to discuss the Subcommittee's recommendations.
- III. Chair Henderson explains that all testimony given to this subcommittee, which is an investigating committee, must be under oath. She reminds those sworn in during prior meetings that they remain under oath.
- IV. Representative Douglas moves that the Subcommittee report include a recommendation that the Department of Disabilities and Special Needs seek funding to create a grant program or incentives for providers to expand the pool of Direct Care Professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage greater participation by potential employees, specifically students preparing to graduate high school.

Representative Douglas' motion that the Subcommittee report include a recommendation that the Department of Disabilities and Special Needs seek funding to create a grant program or incentives for providers to expand the pool of Direct Care Professionals through shadowing programs, recognition programs, grassroots campaigns and training efforts designed to expand awareness about the profession and encourage	Yea	Nay	Not Voting (Absent)	Not Voting (Present)

greater participation by potential employees, specifically students preparing to graduate high school.				
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

- V. Pat Maley, Interim DDSN Director, provides an update on internal agency changes. Tana Vanderbilt, General Counsel, reviews DDSN’s statutory recommendations. Subcommittee members ask questions and make motions for certain agency statutory recommendations to be included in the report.
- VI. Representative Douglas moves that the Subcommittee report include a recommendation that the General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county Disabilities and Special Needs (DSN) boards. In addition, the Subcommittee recommends the agency develop a definition of “qualified provider,” for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.

Representative Douglas’ motion that the Subcommittee report include a recommendation that the General Assembly should consider amending S.C. Code Ann. § 44-20-370(A) to reflect that services are offered through private qualified providers as well as county Disabilities and Special Needs (DSN) boards. In addition, the Subcommittee recommends the agency develop a definition of “qualified provider,” for inclusion in Title 44, Chapter 20 of the S.C. Code of Laws.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			

Rep. Henderson	✓			
Rep. Taylor	✓			

VII. Representative Henderson moves that the Subcommittee report include a recommendation that the General Assembly consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 and S.C. Code Ann §44-28-310 through §44-28-370.

Representative Henderson's motion that the Subcommittee report include a recommendation that the General Assembly consider repealing S.C. Code Ann. § 44-28-10 through § 44-28-80 and S.C. Code Ann §44-28-310 through §44-28-370.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

VIII. Representative Taylor moves that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12). Also the General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace "mental deficiency" and its definition with "intellectual disability," as defined in S.C. Code Ann § 44-20-30(12). In addition, the Subcommittee recommends that "mental deficiency" be replaced with "intellectual disability" through Title 44, Chapter 25.

Representative Taylor's motion that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann § 44-23-10(22) so that the definition of intellectual disability is consistent with the definition in S.C. Code Ann. § 44-20-30(12). Also the General Assembly should consider amending S.C. Code Ann. § 44-25-20(g), to replace "mental deficiency" and its definition with "intellectual disability," as	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
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defined in S.C. Code Ann § 44-20-30(12). In addition, the Subcommittee recommends that “mental deficiency” be replaced with “intellectual disability” through Title 44, Chapter 25.				
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

IX. Representative Douglas moves that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing laws.

Representative Douglas’ motion that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 6-29-770 to remove the requirement that notice be given for a home for persons with disabilities, as it violates federal Fair Housing laws	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

X. Representative Taylor moves that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN last priority in health care decisions for persons unable to consent, as “a person given authority to make health care decisions for the patient by another statutory provision.” Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.

Representative Taylor’s motion that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 44-66-30(A) to give DDSN	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
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last priority in health care decisions for persons unable to consent, as “a person given authority to make health care decisions for the patient by another statutory provision.” Section 44-26-40, § 44-26-50, and § 44-26-60(C) should all be amended to refer to the correct priority number in § 44-66-30.				
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

- XI. Representative Taylor moves that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.

Representative Taylor’s motion that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 43-35-10(4) to include day programs in the definition of “facility” in the Omnibus Adult Protection Act.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

- XII. Representative Henderson moves that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.

Representative Henderson’s motion that the Subcommittee report include a recommendation that the General Assembly consider amending S.C. Code Ann. § 43-35-60 to require investigating agencies to	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
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share specific abuse, neglect, or exploitation case dispositions with the relevant state agency.				
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XIII. Representative Henderson asks the agency to provide more detail about the agency’s failure to promulgate regulations for at least two decades. Interim Director Maley responds, and Chair Henderson makes two recommendations based on that response.

XIV. Representative Henderson moves that the Subcommittee report include a recommendation that the Subcommittee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations, and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations.

Representative Henderson’s motion that the Subcommittee report include a recommendation that the Subcommittee should formally communicate to the House Regulations and Administrative Procedures Committee that the Commission on Disabilities and Special Needs has reviewed some regulations, and determined they should be amended. This study will be available as a resource whenever the Commission promulgates new regulations or proposes amendments to existing regulations.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XV. Representative Henderson moves that the Subcommittee report include a recommendation that the Commission on Disabilities and Special Needs should undertake a complete review of the agency’s regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.

Representative Henderson’s motion that the Subcommittee report include a recommendation that the Commission on Disabilities and Special Needs should undertake a complete review of the agency’s regulatory environment, including existing and needed regulations. If that review reveals regulations that should be promulgated, amended, or repealed, the Commission should proceed through the procedures in Title 1, Chapter 23 of the South Carolina Code of Laws, related to state agency rulemaking.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XVI. Representative Taylor moves that the Subcommittee report include a recommendation that the General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on Disabilities and Special Needs.

Representative Taylor’s motion that the Subcommittee report include a recommendation that the General Assembly should consider amending S.C. Code Ann. § 44-20-210 to establish knowledge and expertise criteria for membership on the Commission on	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
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Disabilities and Special Needs.				
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XVII. Representative Henderson moves that the payment system study be included in the report, when it is completed.

Representative Henderson's motion that the payment system study be included in the report, when it is completed.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XVIII. Representative Taylor's moves that the subcommittee report include a recommendation that the State Director should report to the Healthcare and Regulatory Subcommittee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes.

Representative Taylor's motion that the State Director should report to the Healthcare and Regulatory Subcommittee in six months regarding changes implemented as a result of the Legislative Oversight process and the agency's internal improvement processes.	Yea	Nay	Not Voting (Absent)	Not Voting (Present)
Rep. William K. Bowers	✓			
Rep. MaryGail Douglas	✓			
Rep. Henderson	✓			
Rep. Taylor	✓			

XIX. There being no further business, the meeting is adjourned.